

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
ORION REFINING CORPORATION,	:	Case No. 03-11483 (MFW)
	:	
Debtor.	:	
	:	
<hr style="border: 0.5px solid black;"/>		
In re:	:	
	:	Adversary No.: 04-52447 (MFW)
FLUOR ENTERPRISES, INC	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
ORION REFINING CORP., CYPRESS,	:	
ASSOCIATES, LLC AS ORC	:	
DISTRIBUTION TRUST	:	
REPRESENTATIVES	:	
	:	
Defendant	:	
	:	
ORION REFINING CORPORATION	:	
	:	
Counter-Claimant,	:	
	:	
v.	:	
	:	
FLUOR ENTERPRISES, INC.,	:	
	:	
Counter-Defendant	:	
	:	

**APPELLANT FLUOR ENTERPRISES, INC.'S DESIGNATION
OF RECORD AND STATEMENT OF ISSUES ON APPEAL**

Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, Fluor Enterprises, Inc. ("Fluor" or "Appellant") by and through its undersigned counsel, hereby designates the following items for inclusion in the record and states the issues to be

presented on appeal from the Bankruptcy Court's Order, dated May 9, 2006 and entered by the Court on May 10, 2006 (D.I. 69) and Opinion, dated May 9, 2006 and entered by the Court on May 10, 2006 (D.I. 68).

I. Designation of Record on Appeal

Fluor designates the following record items from Adversary Proceeding No. 04-52447 (MFW):

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
02/04/2004	1	Complaint by Fluor Enterprises, Inc. against Orion Refining Corporation (with attachments)
02/04/2004	3	Summons and Notice of Pretrial Conference
03/05/2004	4	Answer and Counterclaims of Orion Refining Corporation against Fluor Enterprises, Inc., filed by Orion Refining Corporation
03/08/2004	5	Initial Scheduling Order
03/25/2004	6	Answer of Fluor Enterprises, Inc. to Counterclaims, filed by Fluor Enterprises
04/13/2004	9	Motion for Partial Summary Judgment filed by Orion Refining Corporation (with attachments)
04/13/2004	10	Defendant's Opening Brief in Support of Its Motion for Partial Summary Judgment, filed by Orion Refining Corporation (with attachments)
04/13/2004	11	Affidavit of Richard S. Rayzor filed by Orion Refining Corporation
04/13/2004	12	Affidavit of Eric E. Bluth filed by Orion Refining Corporation
04/22/2004	13	Stipulation Extending Time to Answer Motion For Partial

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
		Summary Judgment between Fluor Enterprises, Inc. and Orion Refining Corporation, filed by Fluor Enterprises, Inc.
05/12/2006	14	Notice of Lis Pendens (with attachments), filed by Fluor Enterprises, Inc.
05/14/2004	15	Fluor Enterprises, Inc.'s Motion to Strike the Affidavits of Richard S. Rayzor and Eric E. Bluth in Support of Defendant's Motion for partial Summary Judgment, filed by Fluor Enterprises, Inc.
05/14/2004	16	Fluor Enterprises, Inc.'s Opening Brief In Support of Its Motion to Strike, filed by Fluor Enterprises, Inc. (with attachments)
05/14/2004	18	Fluor's Motion for Partial Summary Judgment, filed by Fluor Enterprises, Inc.
05/14/2004	19	Memorandum of Law in Support of Fluor Enterprises, Inc.'s Motion for Partial Summary Judgment, filed by Fluor Enterprises, Inc. (with attachments)
05/14/2004	20	Plaintiff's Answering Brief in Opposition to Defendant's Motion for Partial Summary Judgment, filed by Fluor Enterprises, Inc. (with attachments)
05/27/2004	21	Amended Brief in Opposition to Defendant's Motion for Partial Summary Judgment, filed by Fluor Enterprises, Inc. (with attachments)
06/18/2004	25	Defendant's Reply Brief in Support of Its Motion for Partial Summary Judgment and Answering Brief in Response to Plaintiff's Motion for Partial Summary Judgment, filed by Orion Refining Corporation
06/18/2004	26	Affidavit of Steven L. Victor—filed by Orion Refining Corporation (with attachments)
06/18/2004	27	Supplemental Affidavit of Eric E. Bluth – filed by Orion Refining Corporation

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
06/18/2004	28	Supplemental Affidavit of Richard S. Rayzor, filed by Orion Refining Corporation (with Attachments)
06/18/2004	29	Defendants Response to Fluor Enterprises, Inc.'s Motion to Strike, filed by Orion Refining Corporation (with attachments)
07/20/2004	33	Amended Affidavit of Daniel Stinger in Support of Plaintiff's Amended Answering Brief in opposition to Defendant's Motion for Partial Summary Judgment, filed by Fluor Enterprises, Inc.
07/20/2004	34	Reply Brief in Support of Its Motion for Summary Judgment, filed by Fluor Enterprises, Inc. (with attachments)
10/18/2004	43	Scheduling Order (Amended and Stipulated) signed on 10/14/2004.
06/15/2005	49	Order Reassigning Adversary Proceedings to the Honorable Mary F. Walrath.
07/28/2005	54	Order (Third Amended Stipulated Scheduling).
10/13/2005	57	Order Approving Stipulation to Reassign Certain Contested Matter and Adversary Proceedings to the Honorable Mary F. Walrath and Granting Related Relief.
03/03/2006	62	Order Approving Fourth Amended Stipulated Scheduling Order
03/09/2006	63	Order Approving Stipulation to Reassign Certain Contested Matter and Adversary Proceedings to the Honorable Mary F. Walrath and Granting Related Relief.
04/06/2006	65	Notice of Agenda of Matters Scheduled of April 10, 2006 Hearing
05/10/2006	68	Opinion Granting Debtor Orion Refining Corp.'s Motion for Partial Summary Judgment and Denying Fluor

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
		Enterprises, Inc.'s Motion for Partial Summary Judgment
05/10/2006	69	Order Granting Debtor Orion Refining Corp.'s Motion for Partial Summary Judgment and Denying Fluor Enterprises, Inc.'s Motion for Partial Summary Judgment
05/19/2006	71	Notice of Appeal (AP-06-39) filed by Fluor Enterprises, Inc. (with attachments)
05/19/2006	72	Receipt of filing fee for Notice of Appeal

Fluor designates the following record items from the main bankruptcy proceeding, No. 03-11483(MFW):

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
05/14/2003	13	Motion to Pay Critical Trade Vendor Claims Debtor's Motion for Authority to Pay Prepetition Obligations of Certain Critical Vendors and Service Providers Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code filed by Orion Refining Corporation
05/14/2003	14	Motion to Pay Critical Trade Vendor Claims Debtor's Motion for Authority to Pay Certain Fixed, Liquidated and Undisputed Prepetition Claims of Fire Vendors, Mechanics and Materialmen filed by Orion Refining Corporation
05/15/2003	37	Order Authorizing the Debtor to Pay Prepetition Obligations of Certain Critical Vendors and Service Providers Pursuant to 11 U.S.C. Sections 105(a) and 363(b) signed in Court on 5/15/2003
05/15/2003	38	Order Authorizing the Debtor to Pay Certain Fixed, Liquidated and Undisputed prepetition Claims of Fire Vendors and Mechanics and materialmen Pursuant to 11

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
		U.S.C. Sections 105(a) and 363(b) signed in Court on 5/15/2003
06/02/2003	156	Response to Debtor's Motion for Authority to Pay Certain Fixed, Liquidated and Undisputed Prepetition Claims of Fire Vendors, Mechanics and Materialmen, filed by Fluor Enterprises, Inc.
06/02/2003	157	Limited Objection to Final Order (I) Authorizing Debtor in Possession to (A) Obtain Postpetition Financing From General Electric Capital Corporation, as Agent, Pursuant to 11 U.S.C. Sections 105, 361, 362, 364(c)(1), 364(c)(2) 364(c)(3) and 364(d)(1), and (B) Utilize Cash Collateral Pursuant to 11 U.S.C. Section 363, (II) Granting Liens and Super-Priority Claims, and (III) Granting Adequate Protection to Prepetition Secured Lenders (related document 41) signed in Court, filed by Fluor Enterprises, Inc.
06/05/2003	204	Final Order Authorizing the Debtor to Pay Prepetition Obligations of Certain Critical Vendors and Service Providers -Order Signed in Court on 6/5/2003
06/05/2003	205	Final Order Authorizing the Debtor to Pay Certain Fixed, Liquidated and Undisputed Prepetition Claims of Fire Vendors, Mechanics and Materialmen -Order Signed in Court on 6/5/2005
06/06/2003	245	Transcript of Hearing held on May 15, 2003
06/20/2003	300	Transcript of Hearing held on June 5, 2003
06/03/04	1283	Motion for Relief from Previously Entered Critical Fire and Trade Vendor Orders, filed by Fluor Enterprises, Inc. (with attachments)
06/03/2004	1285	Motion to Allow Application Of Fluor Enterprises, Inc. To Transfer Adjudication Of Fluor Enterprises, Inc.'s Motion For Relief From Previously Entered Critical Fire And Trade Vendor Orders To The Honorable Mary F.

<u>Date</u>	<u>Docket Nos.</u>	<u>Record Items</u>
		Walrath, filed by Fluor Enterprises, Inc.
06/17/2004	1314	Objection Of Orion Refining Corporation To Application Of Fluor Enterprises, Inc. To Transfer Adjudication Of Fluor Enterprises, Inc.'s Motion For Relief From Previously Entered Critical Fire And Trade Vendor Orders To The Honorable Mary F. Walrath, filed by Orion Refining Corporation
09/24/2004	1486	Transcript of hearing held on September 14, 2004 before the Honorable Charles G. Case, II

II. Statement of Issues

1. Whether the Bankruptcy Court erred in granting the Motion for Partial Summary Judgment filed by Orion Refining Corporation.
2. Whether the Bankruptcy Court erred in denying the Motion for Partial Summary Judgment filed by Fluor Enterprises, Inc.
3. Whether the Bankruptcy Court erred in ruling that Fluor does not have a claim of privilege under the Louisiana Private Works Act.
4. Whether the Bankruptcy Court erred in ruling that Fluor waived its claim of privilege under the Louisiana Private Works Act pursuant to section 5.6 of the Master Service Agreement (“MSA”).
5. Whether the Bankruptcy Court erred in ruling that section 5.6 of the MSA is enforceable notwithstanding the Debtors’ fraudulent activity.

6. Whether the Bankruptcy Court erred in failing to impose a constructive trust for the benefit of Fluor.

Respectfully submitted,
Fluor Enterprises, Inc.
By its attorneys,

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Dated: May 30_, 2006